



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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Q 211

April 29, 1980

B-139052

✓ The Honorable John D. Dingell
House of Representatives

Dear Mr. Dingell:

[Comments on]

This is in response to your request that this Office rule on whether the Department of Transportation violated anti-lobbying provisions contained in various appropriation acts by engaging in efforts to defeat certain legislation during the Fall of 1979. We have concluded that the Department did not engage in such acts and therefore did not violate lobbying prohibitions.

Your letter suggests that the Department attempted to influence members of Congress by urging them to defeat an amendment to the AMTRAK Reorganization Act of 1979, Pub. L. 96-73, September 29, 1979, 93 Stat. 537, that would have placed a one-year moratorium on proposed Department cut backs in the Amtrak system, and an amendment to the Department of Transportation Appropriations Act, 1980, Pub. L. 96-131, November 30, 1979, 93 Stat. 1023, which prohibited the expenditure of appropriated funds for implementation and enforcement of motor vehicle passive restraint system standards (airbags) such as those standards contained in Motor Vehicle Safety Standard No. 208 issued by the National Highway Traffic Safety Administration.

In support of these allegations, you have provided us with information indicating that officials of the Department of Transportation set up displays on the U.S. Capitol grounds of passenger cars equipped with advanced automotive occupant restraint systems during May, June and July 1979. These displays were arranged to attract the attention of Members of Congress and the public at large. Department of Transportation employees were stationed with these vehicles to illustrate and explain the restraint equipment and devices. In addition they distributed brochures on the restraint equipment and answered questions from Members of Congress and the public about the display. (At an August 27, 1979 meeting with your staff, the criteria by which this Office has traditionally determined the existence of anti-lobbying violations was explained. It was agreed that there was no evidence of such violations in connection with the passage of the Amtrak authorization bill, H.R. 3996.)

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As a preliminary matter, your letter refers to a recurring provision in Labor and Health, Education, and Welfare Appropriations Act (you cite, in particular, section 407 of Pub. L. 94-439) which prohibits use of appropriations to prepare kits, pamphlets, or other presentations designed to support or defeat pending legislation. However, this restriction, by its own terms, is applicable only to "appropriations contained in this Act" and does not affect Department of Transportation appropriations.

On the other hand, section 607(a) of the Treasury, Postal Service and General Government Appropriations Act, 1979, Pub. L. 95-429, October 10, 1978, 92 Stat. 1001, has wider application. That section provides:

"No part of any appropriation contained in this or any other Act, or of the funds available for expenditure by any corporation or agency, shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress."

The prohibition of section 607(a) applies to the use of any appropriation "contained in this or any other Act." Thus it is applicable to the use of appropriated funds by the Department of Transportation. However, the applicability of this section to that Department does not mean that every expenditure involved in the support or defeat of legislation pending before Congress is a violation of these restrictions. In interpreting "publicity and propaganda" provisions such as section 607(a), this Office has recognized that every Federal agency or department has a legitimate interest in communicating with the public and with the Congress regarding its policies and activities. If the policy of the Department of Transportation is affected by pending legislation, including appropriation measures, discussion by officials of that policy will necessarily, either explicitly or by implication, refer to such legislation and will presumably be either in support of or in opposition to it. An interpretation of section 607(a) which strictly prohibited expenditures of public funds for dissemination of views on pending legislation would consequently preclude virtually any comment by officials on Administration or Department policy, a result we do not believe was intended.

In our view, Congress did not intend, by enactment of section 607(a) and like measures, to prohibit Department officials from expressing their views on pending legislative and appropriation matters. Rather, the prohibition of section 607(a) applies primarily to expenditures involving appeals addressed to members of the public suggesting that they contact their elected representatives and indicate support of or opposition to pending legislation, or urge their representatives to vote in a particular

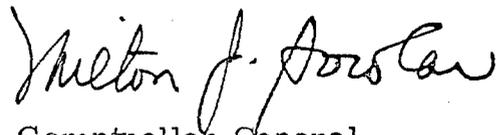
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manner. The foregoing general considerations form the basis for our determination in any given instance of whether there has been a violation of section 607(a). 56 Comp. Gen. 889 (1977); B-128938, July 12, 1976.

None of the evidence submitted in this case indicates that the Department of Transportation expended appropriated funds to appeal to members of the public to urge their elected representatives to defeat the amendment on passive restraints. The fact that the display of air-bag equipment, even accompanied by enthusiastic explanations of how well they work by Department employees, was located at the United States Capitol grounds does not add up to a direct appeal to the public to urge their Congressmen to defeat the anti-airbag legislation. Accordingly, on the basis of the evidence, we are unable to find that the Department of Transportation violated the anti-lobbying provisions contained in section 607(a).

We trust this information is responsive to your inquiry. If we can be of further assistance, please contact us.

Sincerely yours,

A handwritten signature in cursive script, reading "Milton J. Forster".

For the Comptroller General
of the United States